HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 437 OF 2007

Between:

National Insurance Company Limited,
Rep. by its Divisional Manager,
Vijayawada

..... Petitioner

AND

Chapaa Anjaneyulu & another

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri R. Brizmohan Singh

Dated: 05.01.2007

Per G.S.SINGHVI, CJ

This petition is directed against order dated 13.10.2006 passed by District Consumer Forum-II, Vijayawada (for short, 'the District Forum') in Consumer Dispute No. 196 of 2004, whereby the petitioner was directed to pay an amount of Rs.1,00,000/- to the complainant (respondent No.1 herein) with interest at the rate of 7.5% per annum from the date of complaint and cost of Rs.1,000/-.

A perusal of the record shows that respondent No.1 filed a complaint under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act') by alleging deficiency in service in the matter of settlement of his claim in lieu of the damage caused to Tata 2001 Model Lorry bearing No.AP-24 U-4536 in the accident which took place on 28-6-2003. He claimed Rs.3,00,000/- towards expenses for spare parts and repair charges and Rs.1,00,000/- towards compensation for agony and costs. The petitioner contested the claim of respondent No.1 on several grounds including the one that it is not liable to compensate the claimant because the driver did not have valid licence. It further pleaded that there was no deficiency in service.

After considering the rival pleadings and evidence, the District Forum partly allowed the claim of respondent No.1 and directed the petitioner to pay a sum of Rs.1,00,000/- with interest and costs.

At the hearing, we pointed out Shri R. Brizmohan Singh, learned counsel for the petitioner that an effective alternative remedy is available to his client by way of appeal under Section 15 of the Act and, therefore, why it should not be relegated to avail that remedy. Learned counsel responded to this by arguing that

the remedy of appeal cannot be treated as an effective alternative remedy because the Andhra Pradesh State Consumer Disputes Redressal Commission (for short, 'the State Commission') has already expressed its views on the subject. He invited our attention to orders dated 4-10-2006, 16-11-2006 and 15-11-2006 passed by the State Commission in F.A.Nos. 1343, 322 and 588 of 2004 respectively and submitted that when the State Commission has already dismissed similar appeals, it cannot be expected to take a different view in this case.

We have considered the submission of the learned counsel, but have not felt persuaded to agree with him. In our opinion, the remedy of appeal available to the petitioner under Section 15 of the Act is an effective alternative remedy. The power of the State Commission is not only coextensive with that of the District Forum, but much wider than that of the District Forum and the mere fact that in a given case or some cases the State Commission has dismissed the appeals preferred by the insurance company, it is not possible to presume that the appeal preferred by the petitioner will not be considered and decided objectively. Rather, we have no hesitation to observe that the State Commission is duty-bound to consider all the points which are raised before it in support and in opposition of the appeal filed against an order of District Forum and independently adjudicate the same by assigning cogent reasons.

With the above observations, the writ petition is dismissed leaving the petitioner free to avail the remedy of appeal under Section 15 of the Act.

As a sequel to dismissal of the writ petition, W.P.M.P.No. 546 of 2007 filed by the petitioner for interim relief is also

dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

05.01.2007
ksld